

Notice of Allowability

Application No.

10/006,400

Examiner

DIANNE DORNBUSCH

Applicant(s)

GINN, RICHARD S.

Art Unit

3773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to May 4, 2009.
2. ☒ The allowed claim(s) is/are 11-16, 21-25, 27-31, 38-42, 49, 51, 54-56, 60-72, 74, 75 and 81-90.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input checked="" type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date <u>20090630</u> . |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date <u>5/18/09</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input type="checkbox"/> Other _____. |

/Dianne Dornbusch/
Examiner, Art Unit 3773

/(Jackie) Tan-Uyen T. Ho/
Supervisory Patent Examiner, Art Unit 3773

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Frasier Roy on July 1, 2009.

The application has been amended as follows:

Claim 24: On the 2nd line, "to deploy a closure element" should be --to deploy the closure element—

Claim 25: "comprising a closure element" should be --comprising the closure element—

Claim 49: "advancing a clip into the passage" should be --advancing the clip into the passage—

Claim 51: On the 1st two lines "wherein the step of advancing a clip comprises" should be --wherein the step of advancing the clip comprises—

Claim 56: On the 1st two lines "wherein the step of advancing a clip comprises" should be --wherein the step of advancing the clip comprises—

Claim 81: The claim should be dependent on claim 27 not 32. The claim should read — the method of claim 27, wherein—

Claim 82: On the 2nd line "comprises directing a control element coupled" should be — comprises directing the control element coupled—

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Claim 83: On the 2nd line "comprises directing a control element coupled" should be –
comprises directing the control element coupled—

Claim 84: The claim should be dependent on claim 68 not 73. The claim should read –
the method of claim 68, wherein—

2. The following is an examiner's statement of reasons for allowance: the art of record when considered alone or in combination neither renders obvious an apparatus and method for positioning a closure device within a passage that includes a locator member comprising a deflectable element made of a helical wound wire and a control member used to buckle the helical wound wire. Particularly the claimed limitation of the combination of the control element fixedly attached to the distal portion of the deflectable element as well as the device buckling at the intermediate portion are not found in the art of record. Furthermore, the method as well as the functional limitations of the device claims are not found in the art of record when considered alone or in combination.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIANNE DORNBUSCH whose telephone number is

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(571)270-3515. The examiner can normally be reached on Monday through Thursday 7:30 am to 5:00 pm Eastern.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jackie Ho can be reached on (571) 272-4696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Dianne Dornbusch/
Examiner, Art Unit 3773

/(Jackie) Tan-Uyen T. Ho/
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